

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, March 8, 2012
STUDY SESSION MEETING
4:30 p.m.

Chair Toerge called the meeting to order at 5:08 p.m.

Chair Toerge led the assembly in the pledge of allegiance.

Chair Toerge reiterated that the present meeting is a study session, not a public hearing, that the Planning Commission will be taking no action and that the point of the study session is to offer the Planning Commission and the public the opportunity to obtain information and if time permits, provide comments. He reported once study sessions are concluded, the public hearing will be noticed and the process will begin. It is during the public hearing process where the public will have ample opportunity to provide comments and feedback. He encouraged the public to review the document and submit written comments to staff so that staff will have time to address them.

A. ROLL CALL

PRESENT: Kramer, Myers, Toerge, and Tucker
ABSENT: Ameri and Hillgren (Excused)

Staff Present: Patrick Alford, Planning Manager; Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; and Tony Brine, City Traffic Engineer

B. CURRENT BUSINESS

ITEM NO. 1 Newport Banning Ranch: Draft Environmental Impact Report

Chair Toerge read title to the aforementioned item and called for a report from staff.

Planning Manager Alford introduced the item and deferred to consultant Dana Privitt of BonTerra Consulting for details of the Environmental Impact Report. Ms. Privitt provided a PowerPoint presentation.

Chair Toerge indicated that the Environmental Impact Report (EIR) is not prepared by the applicant but rather, an independent environmental consultant and acts as a disclosure document meant to disclose issues associated with the property and the impacts and mitigation of the impacts. Support for the document and support for the project are two distinctly different actions.

Consultant Dana Privitt addressed her role on the project and introduced colleagues present as well as their roles. She noted that the role of her firm was to prepare the EIR under contract with the City, with the applicant being responsible for payments to the City for the preparation of the analyses. She added that if additional information was provided by other sources, that information was peer reviewed by the firm, consultants, and City staff. Ms. Privitt addressed location of the site, surrounding properties and proposal by the applicant for residential and commercial uses, a resort inn, parks, open space and consolidation of oil operation sites for future open space. She addressed CEQA objectives relative to the disclosure of environmental impacts noting that they do not make a conclusion for denying or approving a project. She noted other objectives include identifying impacts and developing mitigation measures to reduce or avoid impacts as well as considering alternatives, encourage agency review, and enhanced public participation.

Ms. Privitt referenced meetings with other cities and agencies and addressed notice of preparation, scoping meetings to gain early input into the project. In addition she addressed the draft EIR review period and noted they are in the process of completing responses to comments for consideration by the City, are completing study sessions and will thereafter begin the public hearing process. She addressed requirements of CEQA to look at all of the phases of a project and what impacts might be based on a baseline (existing) condition.

Relative to impacts, consideration is given to direct and indirect impacts, construction impacts, long-term operational impacts, cumulative impacts and any unavoidable impacts that the project may have. The intent is to mitigate any significant impacts the project may have. Ms. Privitt addressed the components of mitigation, alternatives to the EIR, topical issues addressed in the EIR, and uses. In addition, she addressed road connections to Coast Highway,

alternatives considered, and requirements. She noted that conversions to certain uses are not allowed unless a General Plan Amendment is requested.

Ms. Privitt addressed impacts that could be mitigated to levels considered less than significant, those where there will be significant, unavoidable impacts, and fully-mitigated impacts. She addressed land uses, aesthetics and visual resources and simulation, as well, as seismic activity, water quality issues, remediation of site, grading and compliance with the remedial action program overseen by the Regional Water Quality Control Board and the Orange County Health Care Association program related to the possibility of hazardous materials or oil fields. Ms. Privitt addressed a human health risk assessment conducted as part of the analysis. She reported the amount of development being proposed is consistent with the General Plan and the proposed parks exceed the park dedication requirements. Ms. Privitt noted that there are no known historical resources on the site and that there are archeological resources but that they are not considered significant because of degradation to the sites over time. She reported that there are three sites that will be impacted as part of the project because of physical developments and remediation activities as well as those associated with removing oil infrastructure or soil remediation. She added that the site contains paleontological resources in terms of soil types and there is mitigation being set for monitoring those impacts.

Ms. Privitt reported that part of the site is outside City's fire response times and noted that should the project move forward; the applicant will be responsible for placing a temporary station on the project site. She added that there were no impacts associated with police, libraries, and solid waste, in addition to schools. Regarding water supply, it was determined that the site can be adequately served and that there is sufficient water treatment capacity and no impacts were identified with respect to energy.

Ms. Privitt reported that the project will have significant unavoidable impacts and noted that in those situations, everything that can be done will be done to minimize the impact and provide mitigation. These include lighting on the project site and the applicant is proposing a "dark sky" lighting program.

Ms. Privitt addressed the traffic analysis, related conclusions, and the determination that the resulting impacts can be fully mitigated. However, she noted that the City cannot impose mitigation measures on other jurisdictions and therefore, the impacts have been identified as significant and unavoidable. She noted that other impacts including air quality, construction emission, long-term operation, and cumulative to regional concentrations of emissions. Mitigation could occur if more restrictive construction equipment requirements are placed on the project. In addition, she addressed greenhouse gas emission analysis, noise impacts and their related mitigation, as well as, environmental superior alternatives.

Ann Johnston of BonTerra Consulting provided information regarding biological resources addressing existing conditions, impacts and mitigation measures to reduce the impacts to less than significant levels. She noted that the analysis of the document is based on applicable laws, codes, and standards, and listed a few of these. She reviewed the methodology including numerous biological surveys and technical studies, a detailed literature review, and existing databases. Field surveys included aspects of vegetation mapping and general plant surveys, special status plant surveys, delineation of jurisdictional features on the project site, and special status species surveys.

Ms. Johnston reported over 45 vegetation types that were identified on the project site and presented a summary of the vegetation types in specific areas of the site. In addition, she reported on the existing wildlife population and analysis of the site including special-status biological resources. Ms. Johnston addressed the various types of wildlife found in specific areas including special status wildlife species. She reported on the jurisdictional features of the project site. In addition, Ms. Johnston, addressed design elements of the project prior to evaluating the project impact. These include preservation of 220 gross acres of high-quality habitat on site, development of a habitat restoration plan, identifying a five (5) year maintenance and monitoring program, and the dark sky program.

Ms. Johnston addressed thresholds needed in order to identify the impacts to biological resources, established by CEQA and the City. These include adverse effects on any special-status species, adverse effects on special-status habitat types, any federally impacted wetlands, substantial interference with any wildlife movement, and interference and conflicts with local policies or ordinances.

Ms. Johnston reported on the specific impacts that needed to be evaluated and noted that almost all them were considered permanent impacts. She illustrated where the various impact areas are located, and provided a summary of the impacts, and reported looking at general habitat loss, impacts to various wildlife and special-status species and corresponding mitigation measures as well as jurisdictional impacts. She presented a table listing the mitigation required

by CEQA and additional required mitigation measures. Ms. Johnston reported that the applicant will be required to develop a wildlife interface brochure.

Chair Toerge suggested extending the time for the study session until 6:50 p.m. and reduce their break from 30 minutes to 10 minutes.

CONSENSUS: Members of the Commission concurred to extend the time for the study session until 6:50 p.m. and reduce their break from 30 minutes to 10 minutes.

C. PUBLIC COMMENTS

Chair Toerge invited those interested in addressing the Commission on this item to do so at this time.

Sandra McCaffrey commented on a recent statement by the Environmental Quality Affairs Citizens Advisory Committee (EQAC) relative to the negative visual impacts of the proposed dwellings, obstructing the views of adjacent residents. She expressed concerns with the increased traffic on Bluff Road and commented on EQAC's statements regarding mitigation measures. She addressed health hazards connected with demolition of the oil fields.

Barry Carlson, Mesa Consolidated Water District, thanked the Commission for the opportunity to comment on the project. He reported that Mesa Water has the ability to provide water to the entire site, whether developed or undeveloped, with 100 percent local water sources, reducing the amount of energy required, which will have a positive impact on greenhouse gas emissions. He noted that Mesa Water is interested in continuing to provide water to the area and is neutral to the development.

Mr. Koken inquired regarding the length of time spent by biologists observing burrowing owls, what type of facility they set up, and how they determined that there were no breeding pairs.

Suzanne Forster did not feel that two hours is sufficient time to consider the EIR. She addressed existing fault lines and risks of liquefaction. She indicated that there is just too much at stake and that time should be given to consideration of the project. She felt problems of omission exist within the EIR including the lack of fault data and mapping, as well as health hazards related to the development of oil fields for residential use. In addition, she noted that according to EQAC, there are no ambient air analyses for pollutants that will become a regional problem. She felt impacts should be considered first.

Terry Welch, President of the Banning Ranch Conservancy, provided a PowerPoint presentation and reported that it is the largest parcel of unprotected ocean space remaining in Orange County. He felt that developers usually propose much more than what is actually built. He commented on the General Plan, addressed Crystal Cove developments, and the proposal of twice as many homes as in Crystal Cove on a smaller piece of land. He addressed endangered species and reiterated that Banning Ranch is the largest parcel of unprotected ocean space remaining in Orange County.

Chair Toerge admonished the audience that it was inappropriate to clap at a meeting such as this. He threatened to stop the meeting if it continued.

Bruce Bartram provided a PowerPoint presentation and addressed building constraints within the General Plan regarding buildable areas, regulatory actions that have reduced the buildable areas available, designation of the entire Banning Ranch property as critical habitat for various species, stated that nothing of the above is referenced in the EIR, and that nothing has been included regarding the Coastal Commission's disapproval.

Steve Ray, Executive Director of the Banning Ranch Conservancy, expressed his appreciation to the Chair for explaining the process and proposed that the EIR be divided into three or four groupings of topics and proposed that the public hearing be held to consider each group of topics, separately. That one public hearing be held regarding the mitigation monitoring plan, statement of overriding considerations and the development agreement. He asked that staff publish the entire EIR with responses to comments at least two weeks prior to the first public hearing of the EIR sessions and that all public documents be published at least two weeks in advance prior to the public hearings. He requested that the Commission grant the Banning Ranch Conservancy one hour of comprehensive coordinated presentation at each of the public hearings. In addition, he asked for a copy of the presentation given tonight by the consultants.

Don Roeder listed major impacts of developing Banning Ranch to Newport Crest residents, including lower property values, major traffic congestion, health hazards, air pollution, long-term noise and light pollution, loss of quality of life, and loss of the last coastal open space in Orange County.

Ron Frankiewicz presented the area near Newport Crest, which he felt would be severely impacted by the development. He expressed concerns with traffic, congestion, and noise. He referenced the need for the 19th Street Bridge.

Dr. Jennifer Frutig wondered how a development of this size cannot significantly impact the residents of Newport Beach and commented on the size of the development. She wondered regarding the safety on building residential units over previous oil operations.

Chair Toerge agreed that two hours is not enough to consider this issue. He stated future public hearings will allow ample time for public input.

D. ADJOURNMENT

There being no further business to come before the Planning Commission Chair Toerge adjourned the meeting at 6:58 p.m.